THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO.19472 OF 2005

Dated 2nd September 2005

Between:

K.Manohar S/o.K.Ganganna, aged 41 years,

Occu:Secondary Grade Teacher,

Z.P.High School, Basavanahalli village,

Amarapuram Mandal, Anantapur District.

…Petitioner

And

The Govt. of A.P., Department of Backward Class Welfare,

Rep.by its Secretary, & two others

…Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO. 19472 OF 2005

O R D E R:

The petitioner was employed as a Secondary Grade Teacher, in Z.P. High School in Anantapur District, against a vacancy reserved for Backward Classes. The petitioner claimed the benefit of reservation, on the strength of a caste certificate, dated 15.7.1987, issued to him. Subsequently, proceedings were initiated under the Andhra Pradesh (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993, for short "the Act", and ultimately, through a notification, dated 8.6.2005, the caste certificate of the petitioner was cancelled. Aggrieved thereby, the petitioner

preferred an appeal, before the first respondent, together with an application for stay.

Complaining that no orders have been passed in the application for stay, the petitioner filed W.P.No.16081 of 2005, before this court. It was disposed of on 26.7.2005, directing the first respondent, to pass orders on the said application, within a period of one week. The respondents were further directed not to take any action, in pursuance of the order of cancellation, till the first respondent passes any order on the stay application. In pursuance of the order passed by this Court, the first respondent passed an order, dated 20.8.2005, rejecting the application for stay. The same is challenged in this writ petition.

Heard the learned counsel for the petitioner and learned Government Pleader for Social Welfare.

A perusal of the order, dated 20.8.2005, discloses that the application for stay was rejected, on the ground that the petitioner has not placed any evidence to the contrary. While considering the application for stay, the authority is required to consider the balance of convenience that may ensue, on account of grant or refusal of the stay. The question of production of evidence, or making submissions on merits, would arise, only when the appeal is taken up for hearing. The petitioner availed the statutory remedy of appeal. If the petitioner was dismissed from service, on account of refusal of interim orders, virtually nothing remains to be decided in the appeal. If the appellate authority is of the view that the petitioner cannot be conferred with undue benefit, due to the pendency of the appeal, it can expedite the hearing of the appeal itself.

For the foregoing reasons, the writ petition is allowed, and the order, dated 20.8.2005, is set aside. It is directed that during the pendency of the appeal, preferred by the petitioner, the order dated 8.6.2005, passed by the District Collector, Anantapur, shall stand stayed. The first respondent shall dispose of the appeal, within a period of two months, from the date of receipt of a copy of this order. There shall be no order as to costs.

_____

2nd September 2005

PAN